

COPY

VENABLE LLP
2049 CENTURY PARK EAST, SUITE 2100
LOS ANGELES, CA 90067
310-229-9900

1 VENABLE LLP
Richard J. Frey (SBN 174120)
2 Tamany Vinson Bentz (SBN 258600)
Melissa C. McLaughlin (SBN 273619)
3 Email: rjfrey@venable.com
tjbentz@venable.com
4 mcmclaughlin@venable.com
2049 Century Park East, Suite 2100
5 Los Angeles, CA 90067
Telephone: (310) 229-9900
6 Facsimile: (310) 229-9901

7 VENABLE LLP
Marcella Ballard (*Pro Hac Vice* Application Forthcoming)
8 Email: mballard@venable.com
1270 Avenue of the Americas, 25th Floor
9 New York, NY 10020
Telephone: (212) 307-5500
10 Facsimile: (212) 307-5598

11 Attorneys for Plaintiff Playboy Enterprises
12 International, Inc.

13 UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

16 CV12-10590 SJOLEX

17 PLAYBOY ENTERPRISES
18 INTERNATIONAL, INC., a Delaware
corporation,

19 Plaintiff,

20 v.

21 PLAY BEVERAGES, LLC, a Delaware
22 limited liability company; CIRTRAN
BEVERAGE CORPORATION, a Utah
23 corporation; and CIRTRAN
CORPORATION, a Nevada corporation,

24 Defendants.
25
26
27
28

FILED
12 DEC 11 AM 10:10
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

CASE NO.

Hon.
Courtroom

DECLARATION OF
CHRISTINE COFFELT IN
SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION

Date:
Time:

1 I, Christine Coffelt, declare as follows:

2 1. I am Senior Vice President, Global Licensing of Playboy Enterprises
3 International, Inc. ("Playboy"). In this capacity, I have developed institutional
4 knowledge of Playboy. I have personal knowledge of the facts set forth in this
5 declaration, and if called to testify, I could and would competently testify thereto.

6 2. Playboy is one of the most recognized and popular consumer brands
7 in the world. Playboy is a media and lifestyle company that markets the brand
8 through a wide range of media properties and licensing initiatives. The company
9 publishes *Playboy* magazine in the United States and abroad and creates content
10 for distribution via television networks, websites, mobile platforms and radio.
11 Through licensing agreements, the Playboy brand appears on a wide range of
12 consumer products in more than 150 countries as well as retail stores and
13 entertainment venues.

14 3. Playboy owns over 250 federally registered trademarks. These
15 include registrations for the word "PLAYBOY" and the Rabbit Head Design in
16 several categories, including Class 32, the category covering energy drinks (the
17 "Playboy Marks"). True and correct copies of the registrations for the Playboy
18 Marks are attached hereto as Exhibit A.

19 4. The Playboy Marks (as used in Class 32) have been in continuous use
20 since 2008, and the designation PLAYBOY and the Rabbit Head Design have been
21 in continuous use by Playboy with respect to other categories of goods and services
22 for decades.

23 5. Each year, Playboy spends millions of dollars advertising, promoting,
24 developing, and protecting its trademarks, including the Playboy Marks, which are
25 central to Playboy's success and the success of its United States and worldwide
26 licensees.

27 6. Through Playboy's extensive marketing efforts, media projects, and
28 product licensing initiatives, Playboy built substantial consumer good will

VENABLE LLP
2049 CENTURY PARK EAST, SUITE 2100
LOS ANGELES, CA 90067
310-229-9900

1 associated with the Playboy Marks.

2 7. Playboy uses or licenses others to use the Playboy Marks to promote
3 the Playboy brand and to market, advertise, and sell consumer goods and services.
4 Playboy's robust licensing program includes licensing in the category of beverages
5 in general and energy drinks specifically.

6 8. Playboy's brand recognition and the hundreds of trademarks that it
7 owns are its most valuable assets.

8 9. Play Beverages, LLC ("PlayBev") is a former licensee of Playboy. In
9 2006, PlayBev and Playboy entered into a license agreement, under which PlayBev
10 had the limited right to manufacture and sell certain non-alcoholic beverages,
11 including Playboy-branded energy drinks (the "License Agreement").

12 10. All expiration dates in the Playboy/PlayBev agreement extending the
13 expiration of the License Agreement (the "Second Extension Agreement") have
14 passed: (i) PlayBev's proposed reorganized debtor did not make the mandatory \$2
15 million escrow payment; (ii) PlayBev cancelled its confirmation hearing and
16 therefore did not obtain confirmation of its chapter 11 plan of reorganization; and
17 (iii) the expiration date of September 30, 2012 also has passed.

18 11. Since all possible expiration dates set forth in the Second Extension
19 Agreement have since passed, the License Agreement has expired. As such,
20 PlayBev (as well as CirTran Corporation ["CirTran"], and CirTran Beverage
21 Corporation ["CBC"], and any other sub-licensees or sub-distributors of PlayBev)
22 is not currently authorized to use the Playboy Marks (PlayBev, CirTran, and CBC
23 are collectively referred to as "Defendants"). Playboy has repeatedly advised
24 PlayBev of the expiration of the License Agreement.

25 12. The Playboy Marks are prominently displayed on Playboy Energy
26 Drink itself, which continues to be advertised, promoted, and distributed.
27 California was one of the first states in which Playboy Energy Drink was sold, and
28 Playboy Energy Drink continues to be distributed and sold in California.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 10th day of December, 2012 at Beverly Hills, California.

3

EXHIBIT A

Int. Cl.: 32

Prior U.S. Cls.: 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 3,496,428

Registered Sep. 2, 2008

TRADEMARK
PRINCIPAL REGISTER

PLAYBOY

PLAYBOY ENTERPRISES INTERNATIONAL,
INC. (DELAWARE CORPORATION)
680 N. LAKE SHORE DRIVE
CHICAGO, IL 60611

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: ENERGY DRINKS. IN CLASS 32 (U.S. CLS.
45, 46 AND 48).

SN 77-043,700, FILED 11-14-2006.

FIRST USE 4-1-2008; IN COMMERCE 4-1-2008.

KAREN BRACEY, EXAMINING ATTORNEY

Int. Cl.: 32

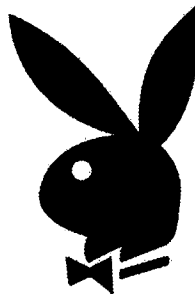
Prior U.S. Cls.: 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 3,496,429

Registered Sep. 2, 2008

**TRADEMARK
PRINCIPAL REGISTER**



PLAYBOY ENTERPRISES INTERNATIONAL,
INC. (DELAWARE CORPORATION)
680 N. LAKE SHORE DRIVE
CHICAGO, IL 60611

THE MARK CONSISTS OF RABBIT HEAD DE-
SIGN.

FOR: ENERGY DRINKS, IN CLASS 32 (U.S. CLS.
45, 46 AND 48).

SN 77-043,708, FILED 11-14-2006.

FIRST USE 4-1-2008; IN COMMERCE 4-1-2008.

KAREN BRACEY, EXAMINING ATTORNEY